IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1085 of 1995

Between:

H. Chandrasekhar, s/o Balan,
R/o Atmakur, Kurnool Dist.

..... PETITIONER

AND

1 The High Court of A.P., Rep by Registrar (Admn.)
Hyderbad.
2 The District Judge,
Kurnool Division, Kurnool.
3 Sri Rama Prasad Singh,
Additional Dist Judge, Ananthapur.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Certiorari quashing Proceedings of the 1st respondent herein in his ROC.No.872/92-B.Spl.(SC) dated 29.10.94 removing the petitioner from service.

Counsel for the Petitioner: MR.P.GANGA RAMI REDDY

Counsel for the Respondents: SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

The Court made the following :

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ORDER: (per Hon'ble Sri Devinder Gupta, the Chief Justice)

Order dated 29.10.1994 passed by the first respondent imposing punishment of removal from service is under challenge by the petitioner.

2. The petitioner while working as Attender in Subordinate Judge's Court, Atmakur during the tenure of service of Sri E. Gopal Reddy, Subordinate Judge, Atmakur in the year 1992 was proceeded against departmentally that he used to visit villages to collect amounts by contacting the parties in land acquisition matters as agent of the said Sri E. Gopal Reddy along with one Siva and thus was involved in corrupt activities and was thereby guilty of misconduct. The enquiry officer held the charge duly proved on the basis of the evidence adduced before him, copy of the enquiry report was served upon the petitioner and show cause notice was issued to him that why punishment of dismissal from service be not imposed. In reply to the notice, the petitioner submitted explanation, which was considered by the first respondent. By a reasoned order, the first respondent passed the order, which is now under challenge in this writ petition.

3. Though challenge in the writ petition was on a number of grounds, but during the course of hearing of the writ petition, only three grounds were urged. First ground to assail the order of removal from service being that it is a case of no evidence against him. Though during the course of enquiry, thirteen witnesses were examined and twenty eight documents were marked, but none of the witnesses deposed directly on the charge leveled against the petitioner. The enquiry officer used the statements of P.Ws. 6, 7 and 11 to bring home the charge against the petitioner, but their statements do not implicate the

petitioner directly or indirectly and on those statements it is not possible to arrive at a conclusion that the charge stood proved against the petitioner. Second ground is that along with the petitioner one C. Venkata Kondaiah, Junior Assistant in Subordinate Judge's Court, Atmakur was also proceeded against for the same charge. On the same evidence C. Venkata Kondaiah was exonerated since it was not found sufficient to hold C. Venkata Kondaiah guilty. The same evidence could not have been made use against the petitioner and he ought not to have been singled out and punished on the same evidence. The third ground to assail the order is that the punishment imposed was disproportionate.

4. We heard learned counsel for the parties and were taken through the entire record including the file of the departmental proceedings, which was produced for our perusal. Having duly considered the submissions made at the bar and gone through the evidence and the record, we do not find it to be a fit case for interference in exercise of our writ jurisdiction.

5. P.W. 6 is Venkata Rami Reddy, who at the relevant time was working as Junior Assistant at Subordinate Judge's Court, Atmakur. He worked as Bench Clerk dealing with O.Ps while E. Gopal Reddy was Subordinate Judge. As per this witness, the petitioner used to meet Siva at Naga Lodge and would bring some slips containing O.P., numbers from Siva and would handover the same to the Subordinate Judge Gopal Reddy. Twice he noticed the petitioner noting down the number of cases with dates by perusing the files of O.Ps. P.W.7, P Madanna at the relevant time was working as Attender in Subordinate Judge's Court, Atmakur. He testified that the petitioner and Siva were moving closely. The petitioner and Siva used to collect bribes from the parties. The petitioner also used to note down the numbers of files of O.Ps., the names of the parties and of the advocates appearing therein. On one occasion he also saw the petitioner taking out some chits from the pocket and throwing them out of the window into the verandah. He also testified about the financial status of the petitioner that six months earlier stating that he was almost pauper but within a short span he was having a television, tape recorder, teakwood cots, dining table and got prepared some gold ornaments for his wife.

6. We have referred to the evidence in order to highlight the submissions made on behalf of the petitioner that it is a case of no evidence. May be that during

the course of cross-examination, P.W.6 was unable to provide the date, month or the year when he saw the petitioner making notes in the chits by looking into the files, but he is very assertive of the incident. Minute details if not furnished will not reduce the evidentiary value of the statement. He is supported fully by respondent No. 7. In case what has been extracted by us above is taken into consideration, it cannot be said that it is a case of no evidence against the petitioner. Evidence is there on record implicating the petitioner. Whether the evidence is sufficient or not is not a matter which can be gone into by us in judicial review. The enquiry officer minutely went through the entire evidence on record and came to a definite conclusion of the petitioner's involvement and held him guilty of the charge. The disciplinary authority after dealing with the defence set up by the petitioner also concurred with the findings recorded by the enquiry officer. Sufficient opportunity was allowed to the petitioner during the course of enquiry to put forth his case. Principles of natural justice were duly complied with. In fact, learned counsel for the petitioner was trying to convince us that on the same evidence we must hold that the evidence against the petitioner was not sufficient and he could not have been held guilty. May be that on reappraisal of the evidence another view might be formed in favour of the petitioner but that alone is not sufficient to interfere with an order passed by the disciplinary authority, more especially when the view formed by the enquiry officer and by the disciplinary authority is a possible view which can be taken on the basis of the evidence on record. It is not a case in which it can be said that the view of the disciplinary authority concurring with the findings of the enquiry officer that the charge against the petitioner stood proved is not the possible view. There is no perversity in the conclusions arrived at by the enquiry officer or by the disciplinary authority. Therefore, there is no merit in the first point urged before us.

7. Even there is no force in the second point urged before us that on the same material another delinquent was exonerated. The enquiry officer scanned through the entire evidence, looked into circumstances, including the explanation offered by the delinquents, and formed an opinion that the charge against one delinquent alone stood proved and against the other it does not stand proved. The witnesses gave their versions assigning different actions against the delinquents. The said evidence having been examined in its right perspective it cannot be urged that the enquiry officer ought to have formed

only one opinion against both the delinquents by exonerating the petitioner also on the same set of evidence.

8. As regards the punishment imposed against the petitioner, we do not find that it is disproportionate to the charge proved against the petitioner. The charge of indulging in corrupt practice, if proved, would require stern punishment, which can be lawfully awarded. There is no room for corruption in judiciary and it cannot be tolerated at any level. May be that the petitioner was only an Attender, but he was under no compulsion to act in the manner in which he acted. Therefore, the punishment imposed cannot be said to be disproportionate to the charge proved.

9. No other point was urged. We find no substance in the writ petition, which is hereby dismissed.

October, 2004.

Sarfraz

To,

1 The Registrar (Admn.), High Court of A.P.,
Hyderabad.
2 The District Judge,
Kurnool Division, Kurnool.
3. Two CD copies

4. The Officer concerned, Legal Cell,

High Court of A.P., Hyderabad.

5. The Section Officer, “C” Section,

High Court of A.P., Hyderabad.